

# Michigan Statewide Home & Community Based Settings Transition Plan

**1<sup>st</sup> Webinar Presentation**

**October 1, 2014**

**Michigan Department of Community Health**

# CMS Final Rule for HCB Settings

- Published in the Federal Register [**CMS–2249–F**; **CMS–2296–F**] on January 16, 2014
- Effective: March 17, 2014
- Each State that renews a §1915(c) waiver on or before March 17, 2014 must submit a Statewide Transition Plan to CMS.

# Final Rule

- IMPORTANT DATES TO REMEMBER:
  - Effective March 17, 2014
  - All states transition plans **due on or before** March 17, 2015
  - All states expected to fully meet rule **within 5 years or sooner = on or before** March 17, 2019

# Federal Intent of the Final Rule

- To make sure that people receiving long-term services and supports through home and community based service Medicaid programs **are a part of the community in which they reside and that they have access to the same conveniences that people who are not in these programs do**

# Some of the Highlights

- Coordinates home and community based services setting requirements across Medicaid
- Defines person-centered planning requirements
- Allows combining more than one target group into one 1915(c) waiver
- New compliance choices for 1915(c) waiver programs, not just approve/deny
- Sets up five-year renewal cycle to coordinate events happening at the same time

# HCB Settings Requirements:

- Part 1 - Home and community based services settings requirements
- Part 2 - Overview of state transition plan to meet the home and community based settings requirements

# The Home and Community Based Settings Rule

**Part 1: Overview of Home and Community Based Services  
Features for Settings where Home and Community Based Services  
is delivered**

# Home and Community Based Settings Requirements

- The final rule establishes:
  - Settings that **are not** home and community-based
  - Settings **presumed not** to be home and community-based
  - State compliance and transition requirements
  - Requirements of the features of home and community-based settings including allowing the Secretary of Health & Human Services to determine additional features



# Home and Community Based Settings Requirements

- Establishes a definition that focuses on **peoples experiences**
- Provides opportunities for people to have **access to the benefits of community living** and the opportunity to receive services in the **most useful setting**

# Home and Community Based Settings Requirements

- Rule **will apply to all settings ( residential and non-residential) where home and community based services are delivered** – not just the place where the person lives. For example,
  - Residential settings such as group homes
  - Day programs
  - Workshops
  - Prevocational Centers

# Home and Community Based Settings Features

- The Home and Community-Based setting:
  - **Is involved in and supports access to** the rest of the community
  - Provides chances to look for employment and **work**, **connect with community life**, and **control personal assets**
  - Makes sure the person receives services in the community **to the same degree of access as people not receiving Medicaid home and community-based services**

# Home and Community Based Settings Requirements

- Settings that are **NOT** Home and Community Based:
  - Nursing facility
  - Institution for mental diseases
  - Intermediate care facility for individuals with intellectual disabilities
  - Hospital

# Home and Community Based Settings Requirements

- Settings that are **PRESUMED NOT TO BE** Home and Community Based:
  - In a publicly or privately-owned **facility providing inpatient treatment**
  - **On grounds of, or next to**, a public institution
  - Settings **that separate people receiving Medicaid home and community based services from people not receiving Medicaid home and community based services**

# Home and Community Based Settings Requirements

- The State can make a case to the federal government that a setting that appears to be included in the **PRESUMED NOT TO BE** Home and Community Based **but** does meet the requirements:
  - A state submits evidence (**including public input**) showing that the setting does have the qualities of a home and community-based setting and NOT the qualities of an institution; AND
  - The federal government finds, based on a **review** of the evidence, that the setting meets the requirements for home and community-based settings and does NOT have the qualities of an institution

# Home and Community Based Settings Features

- **Picked by the person from among different options,** including non-disability specific settings and the state must make sure there is an option for a private unit in a residential setting.
- Person-centered service plans record the choices based on the persons needs, preferences; and for residential settings, the persons resources

# Home and Community Based Settings Features

- Protects a persons **rights of privacy, dignity, respect, and freedom from influence and control**
- **Independence in making life choices**
- **Helps a person choose services and supports, and who provides them**



# Additional Requirements **for** Provider-Owned/Controlled Settings

- The person has a **lease or other legal agreement** providing the same protections as **a** persons not receiving home and community based services (HCBS).
- The person has **privacy including lockable doors**, choice of **roommates**, and freedom to **furnish or decorate the unit**

# Additional Requirements **for** Provider-Owned/Controlled Settings

- People have **freedom and ability to control their schedules and activities, including access to food** at any time
- People may **have visitors at any time**
- Setting is **physically accessible** to the **p**erson

# Additional Requirements **for** Provider-Owned/Controlled Settings

- Changes to the additional requirements must be:
  - Supported by specific need
  - Written in the person-centered plan
- The change is **required to meet the persons needs, not the setting's requirements.**

# Additional Requirements in Provider-Owned/Controlled Settings

- Explanation in the person-centered ~~service~~ plan includes:
  - The **persons specific need** for the change
  - **Prior actions and supports** including less intrusive ways
  - Explanation of **condition equal to need**
  - **Ongoing data measuring** success of change
  - **Regular check** of the changes
  - Persons **permission**
  - Guarantee that changes **will not cause harm**

# Settings that May Isolate

- Settings that isolate people receiving home and community based services from the rest of the community may have any of the following features:
  - The setting is **designed to provide people with disabilities services and activities on-site**, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities.
  - People in the setting **have limited, if any, interaction with the rest of the community**.
  - Settings that **use and/or allow interventions and/or restrictions** that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings like seclusion.

# Settings that May Isolate

- The federal government provides a list and describes these examples of types of settings that are **PRESUMED NOT** to meet home and community based settings because they isolate:
  - Farmstead or disability-specific farm community
  - Gated/secured “community” for people with disabilities
  - Residential schools
  - Multiple settings located near each other

# Settings that May Isolate

- Settings that have the following two features alone might, but will not necessarily, meet the criteria for isolating people:
  - The setting is **specifically for people with disabilities**, and often even for people with a **certain type** of disability.
  - The people in the setting are **mostly or only people with disabilities** and on-site staff provides services to them.

# Home and Community Based Settings Toolkit

- The federal government has provided several documents to use
  - A **summary of the requirements** of home and community based settings and those settings that are not home and community based.
  - Chart of the **heightened scrutiny process**.
  - Additional advice on how to identify **settings that isolate**.
  - **Questions** that may assist states in determining what a **residential** setting is.



# Home and Community Based Settings Rule Recap

- The “test” for any home and community based setting will include **the features of** the setting that make it home and community based and how the **person receiving home and community based services is involved in** the community **compared to other people in the community** who do not receive home and community based services.

# Michigan Statewide Transition Plan

**Part 2: Overview of the federal requirements for states to meet  
the new Home and Community Based Settings Rule**

# The Statewide Transition Plan

- The federal government has termed meeting the new rules with the home and community based settings requirements, “Transition”.
- Michigan has to complete a self-assessment and prepare a statewide transition plan describing how it will meet the new rules.
- The amount of detail in the plan will be decided by the types of settings used.

# Federal Timelines

- If an existing waiver submits a **renewal or amendment** application within the first year of the rule (March 17, 2014 – March 17, 2015)
  - Must include a plan explaining any actions needed to meet setting requirements for the **specific waiver or amendment**
  - Approval of the renewal or amendment will depend upon including an approved transition plan
- Within **120 days** of first renewal or amendment request explaining how the state will meet the settings requirements in **ALL** home and community based waivers and home and community based state plan benefits

# State Transition Plan

- The Plan must contain the following:
  1. Assessment  
Systems and Settings both must be evaluated
  2. Corrective Actions  
Based on findings, what are you going to do?  
Milestones and Timeframes  
How are you going to get there?
  4. Public Comment  
30 day public comment period  
Summary of comments with changes or reason if not changed

# Assessment

- Systemic Review
- Site Specific Assessment
- Provider Assessment
- Settings Presumed Not to be Home and Community Based
- Summary

# Requirements for Public Input

- The state must provide a **30-day public notice and comment period** on the plan the state intends to submit to the federal government -
  - Provide **at least two** statements of public notice and public input
  - Make sure the **full transition plan is available** for public comment
  - Consider **public comments**
  - **Change** the plan based on public comment, as appropriate
  - **Submit evidence of public notice and opinion** of the comments to the federal government

# State Transition Plan

- The plan requires **approval** by the federal government
  - **Not submitting an approvable plan** may result in corrective actions.
  - **Not obeying the terms** of an approved plan may result in corrective actions.
  - If there are settings that do not fully meet the home and community-based settings requirements, the state must work with the federal government to make sure **either the settings meet the requirements or that the people are offered settings that meet** the rule.



# State Transition Plan Recap

- The federal government has **specific timelines** and requirements for **public input**
- This is **not a “one-time” activity**.
  - Meeting the home and community based settings requirements will be **on-going** and will require **constant effort and oversight** to assure state keeps meeting the requirements.

# Impact for Michigan's System

- Michigan's Statewide Transition Plan must includes the following:
  1. MI Choice Waiver
  2. Habilitation Supports Waiver
  3. Children's Waiver Program
  4. Waiver for Children with Serious Emotional Disturbances
- NOTE: MI Health Link will be a new waiver, it must only include settings that meet the new requirements in order to be approved by the federal government. There is no transition plan for new waivers

# Federal Resources

# Centers for Medicare and Medicaid Services Website

The Centers for Medicare and Medicaid Services has a website with all of their materials, guidance, and the toolkit. They update this webpage as new materials are developed so watch the site regularly.

**<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>**

**or search for “CMS HCBS toolkit”**

# Centers for Medicare and Medicaid Services Website – another path

1. Go to [www.medicaid.gov](http://www.medicaid.gov)
2. Click on “**Medicaid**” in the aqua colored bar at the top
3. Select “**By Topic**” from the drop down menu
4. Click on the link for “more information...” in the section titled “**Long-Term Supports & Services**”
5. On this page, the link to “**Home & Community Based Services**” is on the right column. Click that link to get to the page with all the materials the Centers for Medicare and Medicaid Services posts.